

### **REMARKS**

Independent claim 174 has been amended. Independent claims 156 and 175 have been cancelled without prejudice or disclaimer. Dependent claims 157, 158, 161 and 163-169 have been rewritten to depend from claim 174.

Claims 157-174 are now pending for examination.

### **Drawings**

The drawings have been objected to under 37 C.F.R. §1.83(a), as the drawings do not show an “oxygen permeable thin layer interface defining at least one wall of the chamber.”

While Applicants do not concede the merits of this objection, Applicants have elected to cancel independent claims 156 and 175 in order to advance prosecution, thereby rendering this objection moot. Accordingly, it is respectfully requested that this objection be withdrawn.

### **Rejections under 35 U.S.C. §112, ¶1**

Claims 156-173 and 175 have been rejected under 35 U.S.C. §112, ¶1, as failing to comply with the written description requirement.

Applicants do not concede the merits of this rejection. However, as independent claims 156 and 175 have been cancelled in order to advance prosecution, and the remaining dependent claims have been amended to depend from independent claim 174 (which was not rejected on these grounds), it is believed that this rejection is now moot. Accordingly, withdrawal of the rejection of these claims is respectfully requested.

### **Rejections under 35 U.S.C. §112, ¶2**

Claims 156-175 have been rejected under 35 U.S.C. §112, ¶2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Claims 156, 174 and 175 have been rejected as being indefinite for failing to specify what structural elements of the claims provides the function “being constructed and arranged to maintain

and cultivate cells in culture for at least a period of time sufficient to generate a product resulting from interaction of the cells with oxygen and/or nutrients and/or other components.”

While the Applicants do not agree with the basis for the rejection, and repeat their remarks made in Response filed February 24, 2005, in order to expedite prosecution, claim 174 as been amended to remove the clause “for at least a period of time sufficient to generate a protein resulting from interaction of the cells with oxygen and/or nutrients and/or other components.” Additionally, Applicants have cancelled independent claims 156 and 175, and rewritten the remaining dependent claims to depend from claim 174, in order to further prosecution. Thus, it is believed that this rejection has been overcome.

For at least the above-mentioned reasons, it is respectfully requested that the rejection of claims 156-175 be withdrawn.

#### Rejections under 35 U.S.C. §102(b)

Claims 156, 158, 160, 169, 174 and 175 have been rejected under 35 U.S.C. §102(b) as being anticipated by Thomas, *et al.*, U.S. Patent No. 6,632,656 (“Thomas”).

With respect to claim 174, it is not seen where in Thomas there is a disclosure or a suggestion of a membrane defining at least one wall of a fluid pathway as describe in that claim, and an enclosure positioned proximate to the membrane, wherein at least one product of the interaction involving cells in the chamber passes across the membrane into the enclosure.

In Thomas, while a gas permeable film or membrane is disclosed, Thomas does not disclose or suggest an enclosure position proximate the membrane, but rather, the membrane in Thomas is exposed to the external environment surrounding the apparatus in Thomas. See, e.g., Fig. 1A of Thomas.

Accordingly, it is believed that claim 174 is not anticipated by Thomas, and it is respectfully requested that the rejection of claim 174 be withdrawn. The remaining claims have been cancelled or rewritten to depend from claim 174, thus rendering their rejection in view of Thomas moot.

Rejections under 35 U.S.C. §103(a)

Claims 170-173 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Thomas.


Applicants do not concede the merits of this rejection. However, claims 170-173 have been rewritten to depend from independent claim 174, which was not rejected on these grounds, thus rendering the rejection moot. Accordingly, withdraw of the rejection of these claims is respectfully requested.

CONCLUSION

In view of the foregoing remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this response, that the application is not in condition for allowance, then the Examiner is requested to call the undersigned at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,

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